REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

Claims 16-30 have been canceled in favor of new claims 31-34. Support for the subject matter of the new claims is provided at least in Figs. 10 and 11 and the specification on page 33, line 17, through page 38, line 13. (It should be noted that references herein to the specification and drawings are for illustrative purposes only and are not intended to limit the scope of the invention to the referenced embodiments.)

Claims 16, 17, 22-26, 29, and 30 were rejected, under 35 USC §103(a), as being unpatentable over Hadad (US 7,512,409) in view of Cudak et al. (US 2005/0289256). Claims 18-20, 27, and 28 were rejected, under 35 USC §103(a), as being unpatentable over Hadad in view of Cudak and Sudo (US 2006/0160498). To the extent that these rejections may be deemed applicable to the new claims, the Applicant respectfully traverses based on the points set forth below.

Claim 31 defines a base station apparatus that, when data is transmitted to a terminal, decides whether to transmit the data using a frequency assigned to the terminal in advance or using a newly assigned frequency. When a new frequency is assigned, information representing the newly assigned frequency and the data are transmitted to the terminal using the new frequency. When a new frequency is not assigned, the data is transmitted to the terminal using a frequency assigned to the terminal in advance.

Claim 32 defines a terminal that receives control information and determines, using the received control information, whether a terminal is assigned a new frequency by a base station

apparatus. If so, the terminal receives data using a frequency represented by the received control information; otherwise, the terminal receives data using a frequency assigned to the terminal in advance.

The Applicant submits that the applied references, taken alone or together, fail to suggest the subject matter recited in claim 31 of deciding whether to transmit data using a frequency assigned in advance or a newly assigned frequency and, if a newly assigned frequency is used, then transmitting the data and information representing the newly assigned frequency. The applied references, alone or together, also fail to suggest the subject matter recited in claim 32 of determining, from received control information, whether a new frequency is assigned and, if so, receiving data using a frequency represented by the received control information. Claims 33 and 34 are method claims corresponding to the subject matter of apparatus claims 31 and 32, respectively, and similarly distinguish over the applied references.

By contrast to the instant claimed invention, Hadad discloses assigning common data to a fixed portion of a subcarrier and assigning personalized data to different subcarriers in each base station (see Hadad, col. 6, lines 32-37). Hadad further discloses that a channel equalizer cannot reduce interference from nearby base stations, where the signals received from several base stations are different from each other (see col. 2, lines 4-6), but interference caused by common (broadcast) data is reduced using equalizer methods and a signal processor 855 (see col. 9, lines 21-23).

Hadad's common data refers to the data that is transmitted between neighboring base stations and causes interference among transmissions in the same frequency band. Hadad's

common data, therefore, must be transmitted in a frequency band common to the whole communication system and cannot be transmitted using different subcarriers at each base station.

Moreover, if Hadad's personalized data were transmitted using a fixed portion of a subcarrier, the personalized data and common data transmitted from other base stations would interfere with each other. Consequently, the personalized data must be transmitted using different subcarriers at each base station. Thus, Hadad's common data is transmitted using a fixed portion of the subcarriers and Hadad's personalized information is transmitted using different subcarriers at each base station.

Unlike the subject matter of Applicant's claims 31 and 33, Hadad's system does not decide, when data is transmitted to a terminal, whether to transmit data using a frequency assigned to a terminal in advance or using a newly assigned frequency. And unlike the subject matter of Applicant's claims 32 and 34, Hadad's system does not determine whether a terminal is assigned a new frequency by a base station apparatus using received control information received.

Thus, it is submitted that Hadad does not disclose or suggest the above-noted features of the claimed invention. Cudak and Sudo are not cited in the Office Action for supplementing the teachings of Hadad in this regard.

Accordingly, the Applicants submit that the teachings of Hadad, Cudak and Sudo, considered individually or in combination, fail to disclose or suggest all of the limitations now recited in claims 31-34 and, thus, do not render obvious these claims. Therefore, allowance of claims 31-34 is deemed to be warranted.

In view of the above, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

/James Edward Ledbetter/

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JEL/DWW/att

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